



March 25, 2020

Dr. Miguel Cardona
Commissioner of Education
450 Columbus Boulevard
Hartford, Connecticut 06103-1841

By email and First Class Mail

Dear Commissioner,

SEEK is a statewide organization of parents, providers, attorney and advocates working for the protection of the rights of and enhancement of the education of students with disabilities. We very much appreciate your willingness to consider our views and your openness to our reviewing draft guidance.

This morning the Department published a working document providing guidance on special education during school closures due to the COVID-19 pandemic. While this document is a great improvement over prior drafts, we continue to have very serious concerns. We ask you to view these concerns, as we are viewing your responsibilities, from the perspective that the trees that survive storms are the ones that bend.

Fundamentally, it is a parent's right, pursuant to both state and federal law, to request that a PPT meeting be held concerning the education of their child. This right is not waived during the period of school closure. The federal regulations specifically contemplate that IEP Team meetings can be held by conference call. 34 C.F.R. 300.322(c). We understand that your position is that, while schools have the obligation to continue to provide a free appropriate public education during the period of closure, the educational program during this period is not part of the student's Individualized Education Plan (IEP) and, therefore, not subject to PPT oversight. We will be advising the parents we work with to communicate directly with school officials concerning issues with the distance learning program provided during the period of closure. Nevertheless, parents have the right to a virtual PPT meeting and may well need such meetings to deal with inappropriate programs in effect prior to the date of closure, planning an educational program for the 2020-21 school year, planning for the Extended School Year, reviewing evaluations which have been completed by not yet reviewed, seeking evaluations, and the like. We believe the memorandum of this morning needs to be amended to make this right clear.

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We are counseling flexibility to parents. Our goal is the long run continued viability of special education services, rights and protections. We will recommend that parents excuse, where possible, legally necessary members of the PPT team. We will recommend that parents waive, where appropriate, statutory time limits. We are flexible on procedural requirements. We are, however, inflexible on the need for students with disabilities to receive a challenging educational program, "providing a level of instruction reasonably calculated to permit advancement through the general curriculum." *Endrew F. v. Douglas Country School District*, 137 S. Ct. 988 (2017).

We note that the federal legislation about to be voted on in the Senate provides a substantial level of increased funding for education. We trust that such funds will be used in Connecticut both to enhance the learning available for students with disabilities during the period of closure and to provide necessary services to remediate such regression as takes place during the period of closure.

The memorandum also needs to be amended to clarify that footnote 2 applies only to the issue of the timeline for initial evaluations. As we have noted before, the notion that days of at home distance learning during the closure are not school days for purposes of special education, but are counted as school days for other purposes, is discriminatory on its face and dangerous public policy. To the extent that the memorandum counsels flexibility on the timelines for initial evaluations, we can live with it. If this footnote is read more broadly to apply to all of special education law, it is plainly unacceptable.

We look forward to continuing to work with the Department.

Sincerely yours,



Barbara Distinti
President